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SUBJECT: SEEKING TANGIBLE IMPROVEMENT IN DARFUR IN 2009 AND

BEYOND

Classified By: CDA Alberto M. Fernandez, for reasons 1.4 (b) and (d)

Summary

1. (C) There is an opening for tangible improvement in Darfur over the next year and beyond. However, progress will require heavy and sustained engagement by the US, because no other country can deliver what the Sudanese regime wants: better relations with the international community in general, and more normal relations with the US in particular. Moreover, a traditional ceasefire and political agreement in Darfur may not be possible, because the leader of the only movement with popular support among IDPs (SLA/Abdel Wahid of the majority Fur tribe) refuses to negotiate and may never do so. Other groups such as JEM have military strength but little popular legitimacy, may be worse in some ways than the current NCP regime and should be handled carefully by the US. There is no doubt that the Khartoum regime is brutal and ruthless and has committed/commits numerous war crimes and human rights abuses, and a part of US policy must be the pursuit of justice. However, the pursuit of justice should not trump our primary goals in Sudan: 1) implementing the CPA including continued peace and stability, the organization of elections, and ensuring the South's right to a referendum; and 2) improving the situation in Darfur including the pursuit of a sustainable ceasefire, tribal reconciliation, more inclusive governance and improvements in rule of law, and assuring IDP rights, security, and compensation so that they may eventually return to their lands if they wish. With regard to Darfur, which is the most visible part of US policy on Sudan from the perspective of the American public, there is a critical need to understand what the end-state may look like in Darfur -- in terms of what is possible given the current reality of Darfur -- but perhaps more importantly, to define clearly what we expect to see happen in order to be able to say that the situation in Darfur has improved, or that it has not improved enough. This cable outlines a possible strategy for seeking improvement in Darfur in 2009 and beyond. End summary.

Darfur: A Miserable Stalemate

2. (C) While the situation in Darfur has actually stabilized in terms of conflict (there was less fighting in 2008 than in 2007, and far less than in 2003 and 2004) insecurity remains a chronic problem due to the chaotic nature of the current reality in Darfur, which is characterized by multiple rebel movements and Arab militias who are willing to make and break alliances for short-term tactical gain. Many of these armed thugs ("African" rebels and "Arab" militias alike) have resorted to the theft of humanitarian vehicles and equipment as a means of survival and resupply, which has greatly reduced humanitarian access even though the overall situation

is less volatile in terms of outright, sustained military conflict. Meanwhile the government continues to assert control over Darfur with brutal measures that are often ineffective - bombing JEM rebel locations when JEM is preparing for a major attack, even when they are in close proximity to civilians, and on one notorious occasion attempting to disarm IDPs in Kalma Camp by first attempting to enter the camp and then firing indiscriminately into a crowd of civilians. Darfur in 2009 reflects a miserable and bloody stalemate, in which 2.7 million of the region's inhabitants live in IDP camps (or have been displaced - out of an estimated total population of 6 million) while the government is content to allow rebels to remain in some areas as long as they don't pose a threat. This is why many SLM/AW-controlled areas of Jebel Marra are often left alone; SLM/AW doesn't pose a threat since it has few vehicles, while other, mostly Zaghawa-based groups, and especially the highly politicized JEM face constant bombing campaigns by the SAF in retaliation for (or anticipation of) offensive campaigns with vehicles and equipment provided by Chad.

13. (C) If the US is to engage deeply and seriously in resolving the Darfur crisis (and Embassy Khartoum strongly urges a policy of robust diplomatic engagement) it is important to define what is possible and what may be achievable. A CPA-style agreement (between two major actors who mostly control their respective territories, as there is between North and South Sudan) may not be possible in Darfur due to the fact that there are several major rebel groups, and the only one with any popular legitimacy (SLA/Abdel Wahid) may never sign a peace agreement. (Note: The other major rebel groups are JEM, SLA/Unity, and SLM/Minni Minawi. Although Minawi is technically not a rebel since he signed

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the Darfur Peace Agreement, he retains his own army due to the lack of implementation of the DPA. End note.)

14. (C) In the context of Darfur, it is also important to recognize that based on historical patterns, there will always be some level of conflict between Arab nomads and African farmers (especially the Zaghawa and the Abbala Rizeigat Arab tribes - both predatory camelherders) who for hundreds of years have raided each other's camels and vied for the same resources and territory. (Thus one of the keys to a sustainable peace will be improvement in the rule of law and support for tribal conflict resolution mechanisms.) With consistent engagement it is possible that the situation in Darfur may gradually improve, rather than deteriorate, but many of the displaced may choose to remain in IDP camps where they have better access to services. It is also important to recognize that all of the people in Darfur believe that they have been wronged. IDPs who are largely African but also from smaller Arab tribes have survived the worst of the war, with their homes destroyed and their families subjected to the worst forms of human rights abuses and war crimes. (Note: Many of the African and Arab tribes look similar and often have similar traditions, and all are Muslim, but are separated by language, ethnography, and history. End note.) Darfur's Arab tribes, the backbone of the feared janjaweed, have traditionally been the poorest and less educated population in the region.

15. (C) Arab tribes, even some of whom have not been as involved in the conflict such as the Baggara Rizeigat of South Darfur, believe that they too have historic grievances that need to be redressed - including being historically excluded from power and equal land rights in Fur-dominated Darfur. Arab tribes that have been involved in the conflict feel manipulated and used by the Khartoum regime, and want to ensure that they are not the scapegoats when the day of reckoning arrives - because many members of these communities were not involved in the fighting. (Note: The Government's policy of buying-off some of the Arab tribes is not sustainable, especially as the regime faces a financial crisis with the low price of oil. Some former janjaweed and

members of the Arab militias that have been incorporated into the Government's formal security structures are another unruly population that could continue to create havoc in Darfur - as exemplified in the summer of 2008 when a Border Intelligence Force attacked El-Fasher, s market in protest of their unpaid salaries. In an amazing twist of fate, the government called on and received protection from SLM/Minawi and his primarily Zaghawa forces to defend itself from the Arab-dominated BIF. End note.) There will be no lasting solution in Darfur if the views and interests of all the communities in Darfur are not taken into account - both African and Arab. Justice is certainly required, as well as rule of law and a more inclusive and democratic government (in Darfur and in Khartoum) but this will not be achieved by creating tribal "winners" and "losers" in order to redress the crimes committed during the war. Moreover, the pursuit of justice should not trump equally important objectives - peace and stability, tribal reconciliation, democratic transformation, and rule of law.

The Case for Serious US Engagement

¶6. (C) Despite the chaotic and insecure nature of the current stalemate in Darfur, based on the level of actual conflict the war in Darfur appears be closer to the end than the beginning and there are openings for tangible improvements in Darfur. There are also signs that in order to maintain its hold on power, the NCP regime must find some way to bring peace to Darfur. This is not because of some altruism or remorse, the NCP has none. This is partly because the NCP would like to successfully organize and win elections in 2009, which will be difficult if there is no progress in Darfur. This is also because the regime will soon have an ICC indictment of President Bashir to contend with, and the NCP knows that the US could return to a policy of regime change if Khartoum cannot demonstrate tangible improvement in Darfur. Therefore if the US decides to engage fully in finding a solution to Darfur, it is critical for us to define clearly what we want to see happen in Darfur and in Sudan and what we are willing to offer in return. US engagement is essential to solving the Darfur crisis for two reasons: first, because no other country can offer the Sudanese regime what it wants - normalized relations with the West based on our ability to eventually lift sanctions and remove Sudan from the State Sponsors of Terrorism List; and second, because there likely will be no comprehensive peace agreement

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for Darfur (due to multiple rebel actors, one of which may never sign an agreement) and there is a need for either a country or the UN to hold the Sudanese regime accountable for progress or lack of progress in Darfur. The UN is ill-suited to this role, as it relies on the Sudanese Government's cooperation in order to achieve its objectives in Sudan, and ultimately the UN cannot deliver anything to the Sudanese other than what falls within its mandate.

Clearly Defining and Communicating our Expectations

¶7. (C) Diplomatic engagement in Darfur is perilous and complex and requires us to define specifically what it is we are seeking in Darfur within the constraints of what is possible. Producing a poorly-coordinated laundry list of short term objectives (customs clearance for UNAMID shipments, police escorts for UN convoys) as pursued in previous initiatives is not an effective use of US political capital in Sudan. Although we were able to achieve gains in UNAMID deployment and humanitarian access, these were process-related objectives that did little to resolve the essential nature of the conflict in Darfur. They can be reversed at any time. If the US is serious about resolving the conflict in Darfur, we should define clearly what we want to see happen and what we want Darfur to look like three to five years from now, so that we will be able to measure

progress toward these goals. The following is a brief list of suggested core objectives - ie. what we want to see happen:

A) Unilateral security commitments from the GOS that can be monitored aggressively by UNAMID and a Darfur Monitoring Team. The GOS must unilaterally agree to cease all offensive actions and inform UNAMID in advance of its movements. This unilateral security commitment would include the immediate cessation of all aerial bombing in Darfur (unless a rebel group is mounting an attack and UNAMID is informed prior to action being taken, so that the UN could intervene with the rebel group in advance), the cessation of continued arming of particular ethnic groups in the region, and an end to the recruitment of former militia into the GOS's formal security structures.

B) Bilateral ceasefire agreements between the GOS and each rebel group, monitored aggressively by UNAMID. In order to make this happen, we will need to work hand-in-hand with UN/AU Chief Mediator Bassole and be ready with real sticks and carrots for both the rebels and the government, as the rebels especially will be unwilling to negotiate seriously as many of them benefit from the current bloody stalemate in Darfur. Many of these thugs - some of whom are not representative of their communities - have more power and authority now than they ever will once peace is achieved.

C) A framework political agreement (which may eventually lead to a more comprehensive agreement with buy-in from rebels, political parties, civil society, and the government - though this is not critical in order to make progress in the short-term) that addresses the political demands of the people of Darfur, not just the rebel movements. There are already mechanisms in place for allowing the people of Darfur to communicate what they want included in a political agreement, such as the Darfur-Darfur Dialogue and Consultation (DDDC) which was part of the DPA process and could be expanded to ensure greater participation of Darfurians. At this point UNAMID's civil affairs division has more capacity than the DDDC, so UNAMID should be involved in this process. Rebels can include their demands by signing up to a framework political agreement as part of the ceasefire negotiation process.

D) An IDP bill of rights that lays out the government's commitment to IDPs in terms of compensation, development, land rights, rule of law, security, and the ground rules for the relationship between GOS and IDPs (e.g. entry into camps, right for IDPs to self protection, self-governance and representation) with a timetable and international (including US) monitoring or participation in the process.

E) The international community cannot continue to feed and shelter IDPs while the GOS harasses aid workers, exports agricultural commodities at a profit, and exploits humanitarian aid for the regime's benefit. The CPA's wealth sharing provisions are as responsible for that agreement's relative success as any other area of the agreement. The wealth sharing protocols ensure that the money flows to both the north and south and has enabled a relationship of mutual benefit between the NCP and SPLM. Financial issues should

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also be at the heart of a sustainable solution to Darfur. It will be necessary to carefully detail how wealth sharing issues can be drafted for the benefit of the people of Darfur, and will not replicate a system of patronage between former rebel leader and their respective populations in Darfur. GOS support for humanitarian aid, development, and compensation must be included in these wealth sharing provisions.

F) A sustainable Chad-Sudan bilateral agreement that has sanctions for both sides if continued support to each other's rebels persists. Many failed agreements have proven that only US engagement with punitive sanctions will motivate both

Chad and Sudan to honor their commitments, stop meddling in each other's internal affairs, and most importantly end their support for their proxy forces. Any agreement must include provisions for an effective and independent monitoring mechanism. Moreover, if we expect the GOS to negotiate and sign up to agreements with its rebels, we should expect the same of the GOC.

¶8. (C) It will be equally important to define what we want Darfur to look like in three to five years, so that we can measure progress. For example - no active conflict, sufficient security so that IDPs may return to their land if they wish, a representative government achieved through elections, compensation paid to those who lost land and property, improved rule of law and land rights, tribal reconciliation, and a proven track record by the government on its proper treatment of IDPs, security cooperation with UNAMID, and humanitarian access for the UN and NGOs. Deciding where to place justice for war crimes within this list of objectives is critical, as the pursuit of justice above other objectives may prevent some members of Arab militias and rebel groups from laying down their arms. It is important to note that the list of items above is not exhaustive, and many of the objectives are difficult to measure so a serious mediation team would have to decide on clear and realistic metrics and dates. (This should be a long-term plan, not a 30-60-90 day plan that will not be taken seriously. We should be committed to this process for the long-term.) Most importantly, the list of objectives should come from Darfurians themselves following consultations and in concert with the UN and the US.

What Are We Willing to Offer?

¶9. (C) If we are going to negotiate seriously on these objectives, we must be willing to offer something serious in return. Assuming the government is able to achieve progress in Darfur as well as meet milestones in the CPA such as elections and the referendum, there is no reason why the US should not be willing to lift economic sanctions and eventually remove Sudan from the State Sponsors of Terrorism List - assuming the GOS continues to cooperate fully on counter-terrorism (this is something that must also be evaluated in terms of the controversy over possible Sudanese support for Iranian arming of the terrorist group Hamas). Renewed diplomatic engagement early in the new US administration starting with a roadmap laying out specifically what we want to see happen and what we will offer in return will be the surest way of moving the Sudanese regime in the right direction and ensuring positive progress in Darfur in 2009 and beyond. Lack of consistent and sustained engagement (for example, a part-time special envoy will not suffice) without clear and effective communication of our expectations and objectives will result in continued gamesmanship and brinkmanship by the Sudanese elites (NCP, SPLM, and Darfur rebels) as they seek to force outcomes to their own advantage and often to the detriment of their own people. Although a solution to Darfur will require a national scope and perspective, any U.S. initiative on Darfur should not affect the timing of the CPA, the need for its urgent full implementation including the South's right to a referendum in 2011.

¶10. (C) As suggested several times in this cable, serious engagement on Darfur requires clarity, specificity, and consensus about the "end state" for the region. If Senior U.S. policy makers agree to this approach, the initial focus should be on reaching consensus within the USG about its expectations in Sudan and the region as a whole. (As noted above, past efforts have been hastily and poorly coordinated within the USG, and too narrowly focused on short-term palliatives which seemed to offer an easy way out.) Given the broad-ranging humanitarian, counter-terrorism, and political concerns related to such an initiative, there

should be broad commitment from within the USG. This initiative should be de-personalized and should be larger than the personal motivations of any one individual. This process will likely entail weeks or months of internal meetings, followed by consultations with the Sudanese and other partners, and even more time drafting U.S. proposals and outlines for an agreement with the GoS. Once a coherent plan is conceived, we must inform and continue to coordinate with other critical stakeholders and interlocutors in Sudan including the P-5, the UN, the African Union, and the Arab League. All of this should occur before the Sudanese Government is approached with a formal proposal to re-open bilateral discussions. Embassy Khartoum is prepared to participate and assist in any way that would be helpful to advancing US interests in Sudan.

FERNANDEZ